IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 981 OF 2007
IN
CRIMINAL APPEAL NO. 162 OF 2007

Mrs. Zainab Bte Yousuf ..Applicant

Vs.

Union of India and anr. ..Respondents

Ms. Yogini Mohan Kadam i/by Mr. Ayaz Khan for applicant.
Mr. Vijay H. Kantharia for Union of India.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 31, 2007.

P.C.:

1. As per the order dated 19/10/2007 investigation report has been received from the Senior P.I., Goregaon Police Station, Mumbai. The guarantor has been introduced, her statement has been recorded and verification of her immovable property as well as she being a permanent resident of Mumbai has been done by the police authorities. In addition, in her affidavit, the guarantor Smt. Tabassum Danish Shaikh has undertaken to provide for the medical expenditure of the applicant, if she is released on bail, for her

treatment (applicant is suffering from cancer). The guarantor has further undertaken in the said affidavit that the applicant, on her being released on bail, shall be residing with her i.e. with the guarantor at Flat No.604, Pluto Apartments, Opposite Oshiwara Bus Depot, Oshiwara New Link Road, Goregaon, Mumbai - 400 062 till Criminal Appeal No. 162 of 2007 is finally heard and decided by this court. In her statement recorded by the police, she has furnished a guarantee that the applicant on her being released shall not leave Mumbai City at any time during the pendency of the appeal.

2. In support of the plea for being released on bail during the pendency of the appeal, as noted in the order dated 12/10/2007, the learned counsel has placed reliance on the order passed by the Apex Court in the case of Mansingh vs. Union of India [(2006) 1 SCC (Cri) 279] and has pointed out that out of the period of 10 years of RI, the applicant has already undergone the sentence of 6 years and 10 months which is more than half of the total sentence period.

3. Hence, keeping in mind the fact that Criminal

Appeal No. 162 of 2007 is not likely to be listed for final hearing in the near future and by following the order passed by the Apex Court in the case of Mansingh (Supra), this application is allowed and the applicant is directed to be released on bail, if not required in any other criminal case, in the sum of Rs.1,00,000/- and one solvent surety in the like amount during the pendency of Criminal Appeal No. 162 of 2007 on the following conditions:-

(a) On her being released on bail, the applicant shall stay with the guarantor Smt. Tabassum Danish Shaikh at Flat No.604, Pluto Apartments, Opposite Oshiwara Bus Depot, Oshiwara New Link Road, Goregaon, Mumbai 400 062 till Criminal Appeal No. 162 of 2007 is finally heard and decided by this court.

(b) The applicant shall remain present before this court when Criminal Appeal No. 162 of 2007 is taken up for final hearing and in case the applicant's health condition at that time does not permit her to do so, the guarantor Smt. Tabassum Danish Shaikh shall remain

present before this court when the appeal is taken up for final hearing.

(c) The expenses for the applicant's lodging-boarding and medical treatment shall be borne by the guarantor and no claim in this regard shall be made against the respondents.

(d) The applicant shall report to the Goregaon Police Station, Mumbai once in a week and preferably on every Saturday between 3.00 p.m. to 6.00 p.m. during the pendency of the appeal. In addition, the applicant shall report to the A.I.U. (Customs), Sahar Air Port, Mumbai once in a fortnight on the day fixed by the authority. If on any such fixed visits the applicant is hospitalised or is unable to report to the above authorities, the guarantor shall report to the above authorities and mark her attendance.

(e) The passport of the applicant shall continue to remain in the custody of the Investigating Agency i.e. Airport

Intelligence Unit (Customs), Sahar Airport, Mumbai.

(f) The applicant shall not leave Mumbai City, unless prior written permission is obtained from A.I.U. (Customs), during the pendency of Criminal Appeal No. 162 of 2007.

4. At this stage Mr. Kantharia the learned counsel for the respondent no.1 made an oral application to suspend this order for a period of four weeks.

. The application is partly allowed and it is directed this order will not take effect for a period of two weeks from today.

(B.H. Marlapalle,J.)